

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MARYLAND
SOUTHERN DIVISION

FRANZ BUTLER, : Civil Action No.
Plaintiff, : PWG 13-0883
v. :
PRINCE GEORGE'S COUNTY : Greenbelt, Maryland
MARYLAND, et al., :
Defendant. : Wednesday, July 29, 2015
/ 8:45 A.M.

TRANSCRIPT OF EXCERPT OF TRIAL PROCEEDINGS
BEFORE THE HONORABLE PAUL W. GRIMM
UNITED STATES DISTRICT JUDGE

APPEARANCES:

FOR THE PLAINTIFF: SCOTT LAMARR LITTLE, Esquire
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COMPUTER-AIDED TRANSCRIPTION OF STENOGRAPHIC NOTES

I-N-D-E-X

WITNESSES

On behalf of the Plaintiff:

Direct Cross Redirect Recross

Franz Butler

(By Mr. Little)

4

(By Mr. Whitted)

23

P-R-O-C-E-E-D-I-N-G-S

EXCERPT

THE COURT: Why don't you just come on and have a seat in the witness stand, sir. We'll save a little bit of time. If you go right there and have a seat, the jury is coming in.

THE WITNESS: Good morning.

THE COURT: Good morning to you too. Just have a seat and be comfortable.

THE WITNESS: All right. Thanks.

THE COURT: Counsel, we're going to give you the jury instructions today and depending upon when we break and everything, seeing where we are in the evidence at close of business, we'll talk about when we go over them.

What we did is we took the jury instructions that you provided. I've had a number of cases of this type here and I've used mine. We'll show you where we've taken what you've done, what we've added and go through them all together, but you'll have an annotation to look at and we'll talk about that a little bit more later.

(Jury enters.)

THE COURT: Good morning, everyone. Have a seat.

Ladies and gentlemen, thank you so much for coming early. We're going to start whenever you get here. That's our goal.

Today's schedule, just FYI, at noon I have a telephone

1 conference call and another at four. So, we will have our lunch
2 break starting promptly at noon and we probably will recess at
3 four, because this phone call is a conference call and might
4 take a little bit of time.

5 We're doing very well on the evidence, so we're on
6 schedule. So I just wanted to give you that. We'll also have a
7 break this morning and a break this afternoon as always, okay.

8 So, with that in mind, Mr. Little, would you like to
9 continue with your examination of the plaintiff, sir?

10 MR. LITTLE: Sure, sure.

11 THE COURT: And I remind you, Mr. Butler, sir, that
12 you are still under oath.

13 THE WITNESS: Okay.

14 THE COURT: Thank you.

15 FRANZ BUTLER, PLAINTIFF, PREVIOUSLY SWORN

16 DIRECT EXAMINATION (Continuing)

17 BY MR. LITTLE:

18 Q Now, Mr. Butler, when we left off yesterday, we were
19 discussing the point where you were transported from the
20 hospital over to the Department of Corrections. Do you remember
21 that?

22 A Yes.

23 Q Okay. And when you got to the Department of Corrections, I
24 think you mentioned that there were 30 or 40 other guys there;
25 is that correct?

1 A Yes.

2 Q Okay. And what happened when you got there? Anything in
3 particular?

4 A Well --

5 Q Relative to the other people in the bull pen?

6 A The people in jail, they was in jail. You know, it was a
7 jail. They was in jail. I come to jail. They brought me to
8 the jail and they had they issues, I had mine.

9 Q Mm-hmm. And --

10 A I stayed to myself.

11 Q I'm sorry?

12 A I just stayed to myself 'cause I ain't know why I was going
13 to jail.

14 Q And were you concerned about your appearance?

15 A Absolutely.

16 Q Why?

17 A I knew that when I got beaten, I didn't know how it looked
18 because I ain't look in the mirror at the hospital. It was like
19 they rushed me in the hospital. When -- on the ride to the
20 hospital, they -- the officer said that, like, you're okay.
21 Like, you took it like a man.

22 I had a gut feeling that I was being videotaped, so I just
23 was totally humiliated and like, like, like -- I just -- like
24 the way I feel now today is just like backtracking. And it's
25 real depressing and stressful, and it sometimes make me cry.

1 And I never, never, ever forget it as long as I live.

2 I mean, you showed me those pictures the other day, man, I
3 ain't even want to look at them. I had to hide from my mother
4 for two months, because I ain't even want her to see how it
5 look. And when she saw how it finally looked in the pictures,
6 man, she said they tried to killed me, man.

7 Q I'm going to show you, unfortunately --

8 MR. LITTLE: And, Your Honor, we have some exhibit
9 books that we have gotten together for all of the jurors. Since
10 I'm going to show him some exhibits from that book, would it be
11 appropriate to pass them out to them now?

12 THE COURT: Mr. Whitted, are those exhibits you've
13 seen, sir?

14 MR. WHITTED: Yes, Judge.

15 THE COURT: Okay, sure. If you've all agreed upon
16 those exhibit and are they -- let's just make sure we identify
17 them for the record. Do they have the numbers on them?

18 MR. LITTLE: Yes, they're all marked.

19 THE COURT: And they're all -- these are duplicate
20 copies of other documents that will be offered into evidence?

21 MR. LITTLE: Correct.

22 THE COURT: So, each of the exhibits in the notebooks
23 that you're going to give to the jury now are separately going
24 to be introduced during the course of the trial so that we don't
25 have to -- the only source is not in the notebook; is that

1 correct?

2 MR. LITTLE: That's correct.

3 THE COURT: Okay. And, Mr. Whitted, you've seen all
4 of those, right?

5 MR. WHITTED: I have, Judge.

6 THE COURT: So, ladies and gentlemen, we're going to
7 have a notebook that counsel have prepared. The documents in
8 here are jointly agreed to be admissible. They'll come in
9 independently when we bring a stack of documents back to you
10 when you deliberate. But right now, so that you can see copies
11 of what the witness will be looking at, we're going to have a
12 copy, apparently, for you to look at and you can share that.

13 Do you have one for each juror?

14 MR. LITTLE: I do.

15 THE COURT: Oh, great. Then you don't have to share
16 it at all. So, you can have a notebook that you can look at
17 while the witnesses are looking at it as well.

18 (Pause.)

19 THE COURT: We have two jurors that don't have it. Do
20 you have anymore?

21 MR. LITTLE: No, I've got it right here.

22 I've just given Mr. Whitted two --

23 THE COURT: That's fine.

24 THE WITNESS: Mr. Scott --

25 MR. LITTLE: Excuse me. Just a second.

1 THE COURT: Hold on just one second, sir. Wait until
2 Mr. Little asks you a question.

3 THE WITNESS: Oh.

4 THE COURT: All right. You may proceed, sir.

5 BY MR. LITTLE:

6 Q Okay. Mr. Butler, I'm going to show you what's been marked
7 as Exhibit 15. You can take a look at those photographs, sir.
8 Just ask you to take a look at them now?

9 THE COURT: All right. Exhibit 15 is admitted.

10 MR. LITTLE: Exhibit 15, ladies and gentlemen.

11 BY MR. LITTLE:

12 Q Mr. Butler, have you looked at the three photographs?

13 A Yeah, I looked at those.

14 Q Okay. And were those photographs taken for you at the
15 hospital?

16 A Those hospital pictures.

17 Q Okay. And is that how you looked following the incident?

18 A I would say, yeah. Yeah, I would -- I didn't know how I
19 looked in the hospital, but yeah, those are hospital pictures
20 that, I think, that the police took.

21 Q Okay. And when you look at the photographs -- I'm sorry.
22 Let me backtrack on that. I'm going to show you another set of
23 photographs, which is also been admitted as Exhibit Number 16.
24 Take a look at these photographs, sir?

25 THE COURT: All right. Sixteen is in.

1 BY MR. LITTLE:

2 Q Just thumb through them. I think there's six.

3 A Yes, that's me.

4 Q Okay. And those photographs were taken how long after the
5 incident? Do you recall?

6 A I think I took them, like -- I took those, like, the very
7 next day I got out of jail. I got out -- the very next day I
8 got out of jail.

9 Q So, you took those after you got out of jail?

10 A Yes, sir.

11 Q Okay. Now, in the photographs, one of them appears as
12 though you have -- you're holding up your right arm?

13 A Uh-huh.

14 Q Now, was there a problem with respect to your right arm?

15 A Yeah, scraped up. I still got the scrape on my arm right
16 now. I can show you right now.

17 Q So you scraped up your arm as a part of this incident?

18 A Yes, sir. Still got it right on my arm right here.

19 Q Okay. And one of the pictures is of your left eye?

20 A And my left eye right here. Still got that scrape, knot
21 right there on the eye right there.

22 Q Okay. And then also, there's two pictures of your right
23 ankle. Were you having some problems with your right ankle
24 following this incident?

25 A Yep, my ankle -- yeah, my ankle still do a little limping,

1 little limp in my ankle.

2 Q Was it swollen?

3 A Yes, sir.

4 Q Okay. And what kind of -- let's talk about what kind of
5 pain you might have been experiencing following this incident.
6 What kind of problems did you have, if any, physically?

7 A I ain't never felt nothing like it. Pain all in my body,
8 like. I done have pain due to my work, but that pain in
9 particular, I never felt pain nothing like that pain. All
10 through my head. It was like throbbing pain that, like, like --
11 like a hammer going your head, man. And excuse me, I couldn't
12 sleep at night. I had to take medicine just to numb the pain,
13 man.

14 Q And what kind of medicine were you taking to numb the pain?

15 A It was -- I think it was Percocet, Oxycontin.

16 Q And did you have any sort of headaches?

17 A Oh, my God.

18 MR. WHITTED: Your Honor, asked and answered.

19 THE COURT: Overruled.

20 THE WITNESS: Excuse me?

21 BY MR. LITTLE:

22 Q Did you have headaches?

23 A Migraines, migraine headaches, like, like, I, I -- my head
24 was throbbing so bad that I, I took more medicine than I usually
25 supposed to take.

1 Q Okay. And so, you also had mentioned that you had a scrape
2 on your right arm?

3 A Yes, sir.

4 Q Where did that come from?

5 A I believe it come from the concrete. The concrete, by them
6 beating -- wrestling around on the concrete, sir.

7 Q Okay. And your headaches, the skin irritation you have on
8 your right arm and your ankle, how long did it take for all
9 those injuries themselves to go away?

10 A About two months.

11 Q And during that two-month period, you were taking Percocet
12 to deal with the pain?

13 A I was taking Percocets and I was taking Motrin,
14 800 milligrams. And I was taking -- I think it was Amoxicillin
15 for something like infection, so it wouldn't get infected and
16 things like that.

17 Q Okay. Now, I'm going to show you a set of six other
18 photographs, which have been marked as Exhibit Number 17. Would
19 you take a look at those?

20 THE COURT: Seventeen is in.

21 How many photographs are there?

22 MR. LITTLE: Six.

23 BY MR. LITTLE:

24 Q Just thumb through them and let me know when you're done.

25 Plaintiff's Exhibit 17, ladies and gentlemen.

1 A Yes, sir, I looked at it.

2 Q Okay. Now, those photographs themselves, when were those
3 taken? Were those taken when you got out of jail?

4 A These photographs is taken exactly when I got out of jail.
5 It's a shopping center right over Upper Marlboro where it's like
6 a Exxon where I got my girlfriend to pick me up, because I had
7 no transportation to make it home that day. I think it was on a
8 weekend.

9 Q Okay.

10 A And she came and picked me up, and she used her phone to
11 take these pictures.

12 Q Okay. And the photographs that you -- in one of them you
13 appear to have a bandage on your arm; is that correct?

14 A Yes, sir. That bandage was the bandage that I -- the day
15 prior to coming to the jail when I went to Fort Washington
16 Hospital, that was the bandage that they bandage me up and it
17 came loose.

18 Q Okay, I understand.

19 Now, the very last photograph, can you flip to that one,
20 sir?

21 A Say again.

22 Q The very last photograph.

23 A You talking about this one?

24 Q Yes. Now, tell me, is that a picture of you?

25 A Yes, that's a picture when I was looking better.

1 Q Okay. So that picture was taken after your injuries had
2 healed?

3 A Yep, yep.

4 Q All right. You can put the photographs down, sir?

5 A Okay.

6 Q Now, you went to or you were transported -- I think you
7 mentioned that you were transported to Fort Washington Hospital
8 Center?

9 A Yes, sir.

10 Q Okay. And I'll get to that exhibit number.

11 All right. I'm going to show you what we have marked as
12 Exhibit Number 6.

13 Number 6, ladies and gentlemen.

14 THE COURT: And can you just tell me what that is,
15 sir?

16 MR. LITTLE: Yes, that's the medical records from Fort
17 Washington Hospital.

18 THE COURT: All right. They're admitted.

19 BY MR. LITTLE:

20 Q So, you went to Fort Washington Hospital Center and they
21 saw you that evening, correct, in the emergency room?

22 A Yes, sir.

23 Q And then also on the opening statement of Mr. Whitted, he
24 had mentioned that you had went to see Dr. Singh on June the
25 11th and that's one of the records too?

1 A Okay.

2 Q You recognize that record?

3 A Yeah.

4 Q And you went to see Dr. Singh. Is that your primary care
5 physician?

6 A Yes.

7 Q Okay. And you went to see him after you got out of jail?

8 A Yes.

9 Q Okay. And why did you go see Dr. Singh when you got out
10 the hospital?

11 A Well, the hospital told me to go to my doctor so that I can
12 keep up with the contusions and things, instead of coming back
13 to the hospital, because I had insurance at the time. And she
14 said to go to my primary care doctor and that's what I did. And
15 it was convenient for me, because it was, like, down the street.

16 Q Okay, that's fine. And then also, I'm going to show you
17 the last part of that exhibit, which is the emergency room bill.
18 Is that the bill you received from Fort Washington Hospital?

19 A Yes, sir.

20 Q And the second page of that bill, is that the ambulance
21 bill -- I'm sorry. Is that the emergency room bill that you
22 received as well?

23 A Yes, sir.

24 Q Now, the bills themselves say Frances Butler, but your name
25 is actually Franz Butler, correct?

1 A Yes, sir.

2 Q Okay. Now, you got charged with second degree assault and
3 two counts of disorderly conduct?

4 A Really.

5 Q Were you concerned about going to jail?

6 A No, I didn't -- I thought I was gon' go to -- I thought
7 they was helping me out just taking me to the hospital.

8 Q Okay. And so as far as the charges were concerned, at some
9 point while this is all going on and you get charged with these
10 two -- with these, I guess, two counts of disorderly conduct and
11 this one count of second degree assault, at some point, you were
12 worried about being locked up for this crime?

13 MR. WHITTED: Objection, Your Honor.

14 THE WITNESS: Totally.

15 THE COURT: Counsel, would you come up here for a
16 second please?

17 (Bench conference.)

18 THE COURT: Mr. Whitted, you are right that under
19 Rule 611(c) that leading questions, generally speaking, are not
20 allowed on direct examination. But 611(c) says that they are
21 permitted under an examination where necessary to develop the
22 testimony.

23 I think that -- that Mr. Little has done an admirable
24 job trying to control the witness in his sometimes tendency to
25 stray off of topic. And I think that the leading questions

1 allow him to do that under circumstances where, otherwise, it's
2 hard for any of us to anticipate where he may be going with the
3 testimony.

4 And because of that control mechanism, I think it's
5 appropriate under 611(c) and I'll let him do it. It's not a
6 situation where Mr. Little is spoon-feeding him the answers and
7 the witness is just nodding. He getting the information that is
8 clearly relevant in a way that prevents Mr. Little from going
9 off on a tangent, which he has done a couple of times.

10 And for that reason, I believe that the leading
11 questions which might in other circumstances not be appropriate,
12 are appropriate here. So I'll overrule the objection, but I
13 wanted you to know the rationale for it.

14 Mr. Little has shown a commendable restraint in doing
15 that only when it's the only way to get the information without
16 having Mr. Butler go off into tangents.

17 MR. WHITTED: Okay. Thank you, Your Honor.

18 (Open court.)

19 BY MR. LITTLE:

20 Q Mr. Butler, I'll go back to the question I asked you
21 previously. That was, you had been charged with these three
22 different crimes. Were you concerned about going to jail
23 relative to those crimes?

24 A Absolutely.

25 Q Now, I'm going to move on a little bit to Officer Reynolds'

1 incident report relative to this event that happened. And in
2 there, he says that you were loitering --

3 THE COURT: Excuse me. Has that been admitted?

4 MR. LITTLE: It will be. It's part of the exhibit
5 book. Should I wait?

6 THE COURT: Before we make reference to the content of
7 any exhibit, let's move it into evidence so that we know that
8 we're talking about something that the jury is going to see.

9 So what is that exhibit number, sir?

10 MR. LITTLE: Let me look it up.

11 THE COURT: Thank you.

12 MR. LITTLE: That would be Exhibit Number 4.

13 THE COURT: Okay. And there's no objection to that,
14 sir?

15 MR. WHITTED: No objection.

16 THE COURT: All right. Exhibit 4, the police report
17 is admitted. Thank you.

18 You may refer to it, counsel.

19 BY MR. LITTLE:

20 Q Now, Mr. Butler, relative to Exhibit 4, which is the police
21 incident report, it states that you and two other gentlemen were
22 loitering by a tree line on Marcy Avenue on the day of the
23 incident. Is that true?

24 A No.

25 Q It also suggests that you bumped a citizen that told you to

1 get off of them. Is that true?

2 A No, sir.

3 Q Now, it also says that you were drinking a Steel Reserve
4 Malt Liquor at the time. Is that true?

5 A No, sir.

6 Q It also says here that when the officer told you to stop,
7 that you walked or ran away. Is that true?

8 A No, sir.

9 Q It also says in the report that you assaulted the officer
10 by shoving him in his chest when he attempted to apprehend you.
11 Is that true?

12 A No, sir.

13 Q It also says that you caused injury to yourself by
14 resisting arrest. Is that true?

15 A No, sir.

16 Q Now, Mr. Butler, I'm going to get into some things relative
17 to you personally, Mr. Butler. Were -- at the time of this
18 incident on June 7th, 2012, were you under any prescription or
19 non-prescription medication?

20 A Yes.

21 Q Okay. And what kind of prescription or non-prescription
22 medication were you taking?

23 A Risperdal.

24 Q Anything else?

25 THE COURT: I'm sorry?

1 MR. LITTLE: Risperdal.

2 THE COURT: Do you know how to spell that?

3 MR. LITTLE: Yes.

4 THE COURT: Could you spell that for the record?

5 MR. LITTLE: Risperdal is A -- I'm sorry. R-S --

6 THE WITNESS: R-E-S-P-I-R-A-D-O-L.

7 MR. LITTLE: He's got it.

8 THE COURT: Thank you, sir.

9 BY MR. LITTLE:

10 Q So, you were taking Risperdal, right?

11 A Mm-hmm.

12 Q Was there any other medication you were taking?

13 A I can't remember at the time.

14 Q Does the name Seroquel ring a bell?

15 A Yes.

16 Q Okay. Were you taking that at the time?

17 THE COURT: Seroquel?

18 MR. LITTLE: Seroquel.

19 BY MR. LITTLE:

20 Q And if you could spell that for the record, that would be
21 great.

22 A S-E-R-Q-I-U-E-L-L-E.

23 Q Okay. And were you taking that at the time of the
24 incident?

25 A I think so. I take -- I take it, yes. I don't know if I

1 take it that day, but I take it. I think it was hot that day,
2 so it be -- it's like it's real -- it's like real -- it's real
3 sluggish, make you real sluggish.

4 Q We'll get to that, but relative to the incident, are you
5 saying that on that day you did take it or you didn't take?

6 A Oh, yeah.

7 Q You took --

8 A I took it the day before. I know I took it the day before.

9 Q Okay. And is that the Risperdal or Seroquel, or both?

10 A Both.

11 Q Okay. And how does it make you feel?

12 A Make me feel good.

13 Q Did it have any other particular side affects?

14 A Yeah, it have little side affects, like, other than --
15 like, like -- like, make your -- make your neck twitch a little
16 bit.

17 Q Okay. And what was the purpose for -- and were those
18 prescribed medications?

19 A Well, prescribed, yeah.

20 Q Okay. And why were you taking those?

21 A I -- it make me feel good.

22 Q No, no, I mean, but why were they prescribed for you?

23 A Well, like, like depression.

24 Q Okay. And were these prescribed by a psychiatrist?

25 A Yes.

1 Q Okay. And would your psychiatrist, that would be
2 Dr. Bangura?

3 A Yes.

4 Q Okay.

5 THE COURT: What was the doctor's last name?

6 MR. LITTLE: Bangura, B-A-N-G-U-R-A.

7 THE COURT: Thank you.

8 BY MR. LITTLE:

9 Q Now, did you ever have occasion to go see Dr. Bangura after
10 this incident?

11 A Yeah.

12 Q Okay. Did you go to -- I believe it's a she; is that
13 correct?

14 A Yes, sir.

15 Q Okay. And did you go to her relative to the depression
16 you've already been experiencing or was it related to the
17 incident that involved --

18 A Yeah, she like the only person that understand me.

19 Q I guess -- well, let me rephrase the question.

20 Did you go see her after the incident for purposes of your
21 depression or did you go see her because of the incident on
22 June 7th, or both?

23 MR. WHITTED: Object again, Your Honor.

24 THE COURT: Overruled.

25 THE WITNESS: No, no. I -- at that particular time, I

1 was in pain and I had enough medicine. Like, I was just in pain
2 and just trying to lay in the bed at that particular time until
3 I got myself -- I think I called her on the phone and set up a,
4 a -- a day to see her. But at that particular time, it was hot
5 outside and it was humid. And you know, my head was throbbing.
6 I couldn't even walk out the house.

7 Q Okay. Does she treat you for schizophrenia?

8 A Yep.

9 Q Now, at the time of this incident, were you employed?

10 A Yep.

11 Q Okay. Were you self-employed?

12 A Yes, sir.

13 Q And what do you do in your context of -- what did you do in
14 the context of your self-employment back then?

15 A Landscaping and construction work.

16 Q Okay. And were -- you were doing that for yourself?

17 A Yes.

18 Q Okay. And are you employed now, sir?

19 A Yes.

20 Q And what do you do now?

21 A I haul trash. I'm a laborer.

22 Q Okay. And you do that for whom?

23 A Baskins Enterprises.

24 Q Okay. And what do they pay you?

25 A \$10 an hour.

1 MR. LITTLE: Okay. I have no further questions, Your
2 Honor.

3 THE COURT: Cross-examination, sir.

4 MR. WHITTED: Yes, Judge. Thank you.

5 CROSS-EXAMINATION

6 BY MR. WHITTED:

7 Q Mr. Butler, good morning.

8 A Good morning.

9 Q I am Attorney Whitted. I represent the County and Officers
10 Windsor and Reynolds in this case. Do you understand that?

11 A Yes, sir.

12 Q I want to ask you some questions about the lawsuit that you
13 filed against the County and the officers?

14 A I can't hear you.

15 Q I want to ask you some questions about the lawsuit you
16 filed against the County and the officers. Do you understand
17 that?

18 A Yes, sir.

19 Q Okay. And you also recall that you came to my office and
20 we took -- I asked you some questions then?

21 A Oh, yeah, I remember you, yeah.

22 Q And that was when you gave your deposition to me?

23 A How long has that been?

24 THE COURT: Mr. Little -- Mr. Butler, excuse me. Why
25 don't you just wait for a question and answer it? The rules

1 require the lawyers to ask the questions and the witnesses to
2 answer, not the other way around.

3 THE WITNESS: Oh, I'm sorry, Your Honor. I'm sorry.
4 I know I recognize his face.

5 THE COURT: That's all right.

6 Mr. Whitted, whenever you're ready.

7 MR. WHITTED: Thank you, Judge.

8 BY MR. WHITTED:

9 Q Is it fair to say you don't recall when you gave your
10 deposition, Mr. Butler?

11 A Say again.

12 Q You don't have a memory of when you gave your deposition?

13 A Do I have a memory?

14 Q Do you have a memory of when you came to my office and you
15 gave your deposition?

16 A Oh, yeah. Yeah, I remember that day. Actually, I remember
17 from a scale of one to ten, I remember about a eight.

18 Q Okay. Do you recall what date it was that you came for the
19 deposition?

20 A Was it last year sometime?

21 Q Okay. Is it fair to say, you don't remember, Mr. Butler?

22 A No, I remember.

23 Q I'm asking you now --

24 A I don't remember the exact date, no, sir.

25 Q Okay. Mr. Butler, you have some memory recall issues,

1 don't you?

2 MR. LITTLE: Objection.

3 THE COURT: Overruled.

4 THE WITNESS: Sure. Don't we all?

5 BY MR. WHITTED:

6 Q Okay. Would you simply answer my question, Mr. Butler?

7 My question again was, you in particular, not other people,
8 have some memory recall issues?

9 A Oh, yeah, just a little bit. Just a little bit due to the
10 world economy today, but just a little bit. I mean, I totally
11 remember that on June the 7th, if that make any sense.

12 Q Okay. Mr. Butler, let me ask you, did you make a written
13 record of what happened on June the 7th of 2012?

14 A Like, writing it down, like a diary or something?

15 Q Write it down in a diary --

16 A No. No, sir.

17 Q Let me ask my question. Like, in a diary, a notebook or
18 even an e-mail to someone you might have communicated with about
19 this event.

20 A No, I -- that was -- that would take too much of my time
21 writing, writing stuff like that down. I mean, like -- I might
22 have just wrote it down on the strength of maybe I might come to
23 court and I might -- might look at it just on the strength of --
24 just look at it just to refresh my memory. But other than that,
25 I've got a -- I mean, my brain work -- I probably remember

1 everything. Just the things I can't remember, like, like --
2 like, like -- like --

3 MR. LITTLE: Objection.

4 THE COURT: Yeah, I think -- just wait for the next
5 question, if you would, sir, okay.

6 BY MR. WHITTED:

7 Q You mention that you wrote it down someplace. Do you have
8 that document to show the jury where you wrote it down that you
9 just mentioned.

10 A No, sir.

11 Q Okay. So, as you testify today and yesterday, you're
12 relying upon your memory, are you not, since you don't have
13 anything to refresh your recollection about what happened on
14 June 7th of 2012?

15 A I think I can -- I think so.

16 Q Okay. Now, Mr. Butler, I think you said that when you
17 talked about going to jail, that had been one of the worse days
18 of your life. Is that what your testimony was yesterday?

19 A That day particular was the worse day of my life.

20 Q Okay. And I think your testimony was, because you had gone
21 to jail, that was the worse day of your life; is that correct?

22 A No, that day particular when the police beat me up was the
23 worse -- other than my father died in my arms on my mother
24 birthday and I seen my father died, that day -- and I, I mean, I
25 done been -- I done been in other issues and, like, I just drive

1 trucks and tractor/trailers where the brakes go out and things
2 like that where as though I felt like I was getting ready to
3 die. But that day in particular was the -- almost the worse day
4 of my life.

5 MR. WHITTED: Your Honor, may we approach please on
6 this?

7 THE COURT: Come on up.

8 MR. WHITTED: Thank you, Judge.

9 THE WITNESS: I'm sorry that --

10 THE COURT: You're all right. You're fine.

11 (Bench conference.)

12 THE COURT: Yes, sir.

13 MR. WHITTED: Yes, I would like -- Mr. Butler has been
14 to jail before and I want to point that out. I'm not going to
15 talk about convictions, unless he brings it up or denies it, but
16 the fact that he has simply been to jail before.

17 THE COURT: Let me, let me -- I appreciate your care
18 in raising that with me now, because we talked about what would
19 be appropriate, what would not.

20 I think if you simply ask him, is it not true that you
21 have been in jail in the past other than this day and left it at
22 that, we don't have to go into the reason or the charge or the
23 outcome, or the length, but yes, that would be appropriate.

24 MR. WHITTED: Thank you, Judge. And if he were to
25 deny that, again, I would ask to have his deposition

1 re-submitted.

2 THE COURT: You can read that to the jury, because
3 that is an admission under 801(d)2(a), so it's independently
4 admissible. You don't need him to do anything about it at all.
5 You can just simply read it into the jury yourself.

6 MR. LITTLE: And for the record, I just want to renew
7 my objection too.

8 THE COURT: No, I appreciate that, but he has
9 testified about the experience of going to jail and what that
10 meant to him and -- yesterday. And I think that because if for
11 no other reason than the intentional infliction of emotional
12 injury claim and the other non-economic claims that he has that
13 the jury is entitled to know whether he has had other times when
14 he was in jail.

15 Mr. Whitted's approach is narrow and circumscribed,
16 and done in a leading fashion, does not get the details in that
17 would potentially bring in prejudice beyond what I would allow
18 in. So, your objection is noted, but overruled.

19 MR. LITTLE: Thank you.

20 MR. WHITTED: Judge, just so we're clear. He's been
21 to jail numerous times, not just one time.

22 THE COURT: You can say, you've been in jail before,
23 more than; once, more than twice, more than five. You can do it
24 in that fashion, however you need to to get as close as you can
25 to his being able to acknowledge how long it is. And then you

1 might not need to use the deposition. If you need to use the
2 deposition in addition, then that's independently admissible
3 under 801(d)2(a).

4 MR. WHITTED: Thank you, Judge.

5 (Open court.)

6 BY MR. WHITTED:

7 Q Mr. Butler.

8 A Yes, sir.

9 Q Now, it's true that you've been to jail before, have you
10 not?

11 A I been to jail before.

12 Q Okay. And how many times have you been to jail -- not
13 relative to this incident on June 7th, 2012, but other times
14 have you been to jail?

15 A A few times.

16 Q Okay. So you've had bad days before June the 7th of 2012?

17 MR. LITTLE: Objection.

18 THE COURT: Overruled.

19 BY MR. WHITTED:

20 Q You've had bad days because you've been to jail before June
21 the 7th of 2012, have you not?

22 A Yeah, I have worser days than being to jail. I had worser
23 days than going to jail.

24 Q But my question, Mr. Butler, is ---

25 MR. LITTLE: Objection, asked and answered.

1 THE COURT: Overruled.

2 BY MR. WHITTED:

3 Q My question, Mr. Butler, is because you've been to jail
4 before June the 7th, 2012, you've had other bad days, have you
5 not?

6 A Can you be more specific?

7 Q That's as particular as I choose to be at this time. Do
8 you understand my question?

9 A No.

10 Q Because you have been to jail before June 7th of 2012,
11 you've had other bad days in your life because you've been to
12 jail before?

13 A I've had other bad days? Yes, sir.

14 Q And because you've been to jail, you've had those bad days.
15 That's my question.

16 A I didn't understand. Say it again.

17 Q Mr. Butler, my question to you is, you have been to jail
18 before June the 7th of 2012, have you not?

19 A I can't -- I can't remember. I think so. I can't
20 remember, I can't remember, I can't remember.

21 MR. WHITTED: Your Honor, may I approach once again
22 please?

23 THE COURT: Okay.

24 MR. WHITTED: Thank you.

25 (Bench conference.)

1 THE COURT: Yes, sir.

2 MR. WHITTED: And I apologize. I just want to be very
3 careful that I don't say something not permitted by the Court
4 here. But since he says he cannot remember -- since he says he
5 cannot now remember and he's admitted to me in his deposition
6 about his prior convictions in his deposition, I'd like to
7 impeach him.

8 THE COURT: Okay. So, hold on a second. There is,
9 there is -- there is two different things. I want to make sure
10 I know what you're doing. One is that he just testified that
11 he's been to jail before and now he says he can't remember. So
12 the jury has heard that and you are free to argue on closing
13 that his memory is not great, because one moment he said he
14 could remember going to jail and another time he said he
15 couldn't.

16 And Mr. Little can argue whatever consequence he
17 needs. That that's inconsistent statement, impeachment under
18 Rule 613. To extent that you want to impeach his credibility by
19 showing that he has been convicted of a prior felony conviction
20 under Rule 609(a), then you have to -- the foundation you need
21 to establish is that it was a conviction for a felony, which
22 means it was an offense punishable with more than a year in
23 jail -- up to a year in jail -- up to death penalty, excuse me.
24 And that the conviction occurred within ten years of conviction
25 or release, whichever is later.

1 So, the date is ten years old from the date of
2 conviction or release, whichever was later. Or you have to show
3 under 609(a)2 that it was an offense that has a nexus with false
4 swearing or dishonesty, regardless of punishment within that
5 same time frame.

6 Now, are the convictions -- they qualify under those
7 standards, sir?

8 MR. WHITTED: Your Honor, I think at this point I'm
9 just going to move on.

10 THE COURT: All right, sir.

11 MR. WHITTED: Thank you, Judge.

12 THE COURT: You bet.

13 (Open court.)

14 BY MR. WHITTED:

15 Q Mr. Butler, you testified that you became depressed after
16 you were arrested; is that right?

17 MR. LITTLE: Objection.

18 THE COURT: Overruled.

19 THE WITNESS: Totally.

20 BY MR. WHITTED:

21 Q Okay. But you were actually diagnosed with depression
22 before June 7th of 2012; were you not?

23 A Yeah, my mother and father -- my mother -- it run through
24 the family.

25 Q My question, Mr. Butler, is before June the 7th of 2012,

1 you were diagnosed with depression; were you not?

2 A Yes.

3 Q Okay. And Dr. Bangura, your psychiatrist, diagnosed you
4 with depression at that time; did you not?

5 MR. LITTLE: Objection, Your Honor.

6 THE COURT: Overruled.

7 THE WITNESS: She was just my psychiatrist to go see.
8 She was convenient in the area.

9 BY MR. WHITTED:

10 Q Okay. And my question is, your psychiatrist, Dr. Bangura,
11 is the one who diagnosed you with depression before June 7th of
12 2012?

13 A I really can't remember.

14 Q Okay. And you do recall coming to my office and giving
15 your deposition, right?

16 A Yeah, I think I was trying to read it yesterday.

17 Q Okay. And I asked you some questions about your mental
18 health at your deposition, correct?

19 A I can't even remember.

20 Q Okay. And did you -- do you recall being placed under oath
21 in my office when we took your deposition?

22 A Yeah, I remember that.

23 Q Okay. And did you promise to tell the truth to me at that
24 time when I asked you questions about your mental health?

25 A Yes, sir.

1 Q Okay.

2 MR. WHITTED: May I approach, Your Honor?

3 THE COURT: Yes.

4 MR. WHITTED: Thank you.

5 THE COURT: Just give the page reference so that
6 Mr. Little knows where you are.

7 MR. WHITTED: All right, sir.

8 BY MR. WHITTED:

9 Q Do you recognize that document, Mr. --

10 A Yes, sir.

11 Q What is that, Mr. Butler?

12 A This is all the stuff -- all the stuff that was recorded on
13 that day when we was in that room.

14 Q Okay. And I asked you questions about this lawsuit, did I
15 not, at that time?

16 A You asked me questions about where I worked at. You asked
17 me questions about where I lived at. You asked me questions
18 about that particular day. You didn't ask, particularly, about
19 this lawsuit, sir.

20 Q Okay. But you recall I asked you about your depression and
21 when you became -- when you first became depressed?

22 A I really can't recall that particular question, but I know
23 you asked about a hundred questions that day.

24 Q Okay. Let's look at your deposition on page 23 and
25 starting in line three, and I'll read what you told me at that

1 time?

2 A You say 23?

3 Q Page 23, Mr. Butler, on line three.

4 A Page 23, line three and it says, "A, yes".

5 THE COURT: Just a second, sir. I think what
6 Mr. Whitted is going to do is he would like you to read along
7 with him, but read along to yourself. He will read it out loud
8 and if he misses something or gets it wrong, you let him know.

9 THE WITNESS: I'm sorry, Your Honor. It's the first
10 time I ever been --

11 THE COURT: You don't need to apologize.

12 THE WITNESS: I'm sorry.

13 MR. LITTLE: Mr. Butler.

14 THE COURT: You're fine.

15 So, Mr. Whitted, here's the way to do it, if you will,
16 sir. You've identified page 23, line three.

17 Mr. Butler, Mr. Whitted will read and you read along
18 with him. If he misses a word or says something that's not
19 written down there, then you say something. But otherwise, he's
20 going to say, I'm reading from it, did I read it accurately? If
21 he did, then you can say he did. If he did not, you can say
22 where he got it wrong, okay?

23 THE WITNESS: Yes, sir.

24 THE COURT: Great.

25 Go ahead, sir.

1 BY MR. WHITTED:

2 Q And I'll correct myself. I'm going to start on page 22,
3 line 18 with my question and then I'll turn the page.

4 Starting page 22, line 18, my question was, "When did you
5 start treating with Dr. Bangura?"

6 Your answer, "Maybe about two and-a-half years ago. About
7 two and a half."

8 And your deposition was taken on September 19th, 2013.

9 The next question was, "Two and-a-half years?"

10 Turning the page to page 23. Your answer, "Yes."

11 "Question: So sometime in what, 2011 or 2010?"

12 And your answer was, "Yes."

13 Is that a fair read of what you told me under oath at your
14 deposition?

15 A Yes, yes.

16 Q Okay. So you started treating with Dr. Bangura before
17 June the 7th of 2012; did you not?

18 A Yes.

19 Q Okay. And at that time, Mr. Butler, when you began
20 treating with Dr. Bangura, you had certain conditions or
21 symptoms that were in your life to cause you to go treat with
22 Dr. Bangura; did you not?

23 A Yes.

24 Q And your symptoms were that you sometimes hear voices. Was
25 that one of your symptoms?

1 A Kinda, sorta.

2 Q Okay. And you also were treating for paranoia at that time
3 as well?

4 A Yes.

5 Q And you also told her that you sometimes feel like your
6 life is being threatened; is that correct?

7 A Yes.

8 Q So you had those three conditions in your life before
9 June the 7th of 2012?

10 A Yes.

11 Q Okay. It was your primary care doctor, Dr. Singh, who told
12 you to go and treat with Dr. Bangura?

13 A No.

14 Q Okay. Let's look at another page in your deposition.

15 A I don't think so.

16 Q Let's turn to page 25 of your deposition, Mr. Butler. And
17 I'm going to read line three through eight, and tell me if what
18 I'm reading is an accurate read of what you told me under oath
19 at that time.

20 I'm going to back up to page 24 and read the question. My
21 question was, "Okay. Who was it that told you to go see
22 Dr. Bangura?"

23 Your answer, "My other doctor."

24 My question, "Which other doctor is that?"

25 Your answer, "My primary care doctor."

1 "Question: Primary?"

2 Your answer, "Primary care doctor.

3 "Okay. Who was that person?"

4 Your answer, "Dr. Kaur."

5 I said, "Dr. Karr?"

6 And you said -- you spelled the name K-A-U-R.

7 So, it was Dr. Kaur who, in fact, told you to treat with

8 Dr. Bangura before June the 7th of 2012, for those three

9 conditions. Is that right, Mr. Butler?

10 A I pretty much -- that day, sir, I, I -- I really -- I --

11 I'm, like, again like -- I know Dr. Kaur takes care of one of my

12 issues and Dr. Bangura is a psychiatrist, okay. I got -- I had

13 it set up to where I see Dr. Kaur one day and I see Dr. Bangura

14 once a month at that particular time, which is two years ago.

15 Now --

16 MR. LITTLE: I'm going to object, Your Honor.

17 THE COURT: Yeah, just hold on for one second, sir.

18 You've answered the question. Wait for another one, if you

19 would, please.

20 THE WITNESS: Oh.

21 BY MR. WHITTED:

22 Q And, Mr. Butler, when you began treatment with Dr. Bangura,

23 she told you at that time, you need to come for regular

24 treatments, didn't she?

25 A Say again.

1 Q When you began treatment with Dr. Bangura, she told you,
2 you need to come or you have to come for regular treatment,
3 didn't she?

4 A She said, make sure you take your medicine and do the right
5 thing.

6 Q Okay. Let's look at page 26 of your deposition?

7 A Twenty-six, okay.

8 Q And I'm going to read starting on line 19 and I'll turn the
9 page to page 27, then I'll stop. Starting at line 19, page 26,
10 my question to you then was, "All right. And so did -- what did
11 Dr. Bangura tell you that you need to start treating --

12 You interrupted and you said, "Yeah."

13 And my question was, "With her on a regular basis?"

14 A You reading too fast, because say, all right. I mean, like
15 --

16 THE COURT: Hold on one second. He just wants to know
17 if he's reading it right, sir.

18 THE WITNESS: I'm trying to understand it too, because
19 he just started from --

20 MR. LITTLE: Objection.

21 Mr. Butler, you have to wait.

22 THE COURT: Why don't you go back to the starting
23 point and read it a little bit more slowly. He's going to start
24 over and tell you where to start looking. And he's going to
25 read more slowly, so that you -- if he's reading too fast, just

1 say, slow down.

2 THE WITNESS: Okay. Thank you.

3 BY MR. WHITTED:

4 Q Mr. Butler, I'm going to start on page 26, line 19.

5 You have page 26?

6 A Yes, sir.

7 Q And I'll start at line 19 at the bottom the page there and
8 I'll flip over as I continue reading.

9 My question to you was, "All right. And so did -- what did
10 Dr. Bangura tell you, that you need to start treating --

11 Your answer was, "Yeah."

12 And then I finished my question, "with her on a regular
13 basis?"

14 And your answer was, "Yes."

15 Is that a fair reading of what you told me under oath at
16 your deposition?

17 A Yes, sir.

18 Q Okay. So you knew you were supposed to come to her for
19 regular treatments, right?

20 A Yes, sir.

21 Q And Dr. Bangura prescribed three medications for you to
22 help treat you for the conditions; the voices, the paranoia and
23 the feeling threatened, did she not?

24 A Yes, sir.

25 Q And that's why she prescribed, the Seroquel for you?

1 A Yes, sir.

2 Q And she also prescribed Risperdal?

3 THE COURT: Could you spell each of those, please?

4 MR. WHITTED: Yes, Judge. The spelling I have is
5 S-E-R-O-Q-U-E-L.

6 THE COURT: All right. And the second one?

7 MR. WHITTED: The second medication is R-I-S --

8 MR. LITTLE: I'm sorry. I don't mean to interrupt.

9 You're reading from -- you're reading your spelling of
10 it. He spelled it here.

11 MR. WHITTED: That's fine.

12 THE COURT: Just -- it's, it's not so much that this
13 is a quiz on whose got the right spelling. It's just so that
14 the record shows whatever the transcript said at that point.

15 MR. WHITTED: The second medication is Risperdal. The
16 spelling I have is R-I-S-P-E-R-D-A-L. And the third medication
17 is Haldol, H-A-L-D-O-L.

18 BY MR. WHITTED:

19 Q So, Mr. Butler, you agree that Dr. Bangura prescribed those
20 three medications for you; the Haldol, Risperdal and the
21 Seroquel?

22 A Yes, sir.

23 Q And you, in fact, filled those medications with a
24 pharmacist in 2010; did you not?

25 A Yes, sir.

1 Q Okay. And at that time, you began taking those medications
2 every day as Dr. Bangura told you to; did you not?

3 A Yes, sir.

4 Q Okay. And Dr. Bangura never told you to stop taking those
5 medications, did she?

6 A She never told me to stop.

7 Q Okay. And when I asked you under oath on September 19th in
8 my office, at that time, you were still treating with
9 Dr. Bangura; were you not?

10 A Yes, sir.

11 Q Okay. And at the deposition date, September 19th, 2013,
12 you were supposed to still be taking those three medications
13 every day; were you not?

14 A Yes, sir.

15 Q Okay. But you didn't do what Dr. Bangura told you, did
16 you?

17 A I did everything she told me.

18 Q Okay. Let's look at page 31 of your deposition?

19 A You said, 31?

20 Q Page 31. Turn over to page 31 and I'm going to start
21 reading at line 11. I'm going to start actually line six and
22 tell me if what I'm reading is a fair read on what you told me
23 in your deposition under oath.

24 I said, "Okay, all right. So, you're on these medications
25 today. Have you had some today?"

1 Your answer was, "No.

2 "You had some yesterday?"

3 Your answer was, "No.

4 "Why did you not take it yesterday?"

5 And your answer was, "I ain't want to."

6 A You sure I said that?

7 Q Could you read line 12 and tell me if what I said is a fair
8 read on what you told me under oath, "I ain't want to"?

9 A Oh, I can't remember I said that, but I might have missed a
10 day. I might have missed a day, because it totally has me in a
11 state of mind to -- the pill is about that big and it's three of
12 them, and you really can't get no work done off of it.

13 Q Okay.

14 A So, I might have missed a day.

15 Q Okay. In fact, on your deposition date, you had missed
16 more than one day of taking the medications, hadn't you?

17 A Oh, yeah, I missed a day.

18 Q In fact, Mr. Butler, you missed three days of taking the
19 medications when I took your deposition on September 19th, 2013,
20 right?

21 A Say again.

22 Q You had missed three days of the medications when I took
23 your deposition?

24 A I don't think so.

25 Q Okay. Let's look at what you told me in line 31?

1 A Yes, sir.

2 Q Page 31.

3 A Uh-huh.

4 Q Lines 15 through 21.

5 A Yeah.

6 Q Okay. And I asked you, starting at line 15 -- please read
7 along with me. "When was the last time you had the Seroquel?"

8 And you told me, "Monday."

9 I said, "How about the Risperdal?"

10 And you told me, "Monday."

11 And I asked you, "Everything on Monday?"

12 And you said, "Yes."

13 And then I said, "And today is Thursday?"

14 And your response was on page 32, "Yes."

15 Then I asked you, "So it's been three or four days since
16 you've had your medications?"

17 And your response to me then was, "Yes."

18 Is that a fair read on what you told me?

19 A Yeah, but let me correct you, because that day -- let me
20 correct you, if you don't mind jury and Your Honor, let me
21 correct you, because that particular date I do remember that the
22 man was typing something just like that and it wasn't a
23 typewriter. And it wasn't as efficient and it wasn't concrete
24 to whereas though it would be exactly the paper, because I
25 stutter a lot, little bit. And I believe -- I know that

1 particular day that everybody was in a rush. That day -- this
2 paper right here and I think I stutter sometimes and --

3 MR. LITTLE: I'm going to object, Your Honor.

4 THE WITNESS: -- the man told me that the deposition
5 would not be concrete, hundred percent to whereas though when it
6 do come to court and when you asking me these questions now like
7 you asking me now.

8 THE COURT: I'm going to sustain the objection.

9 MR. LITTLE: He sustained my objection.

10 THE COURT: Mr. Butler, hold on one second.

11 Ladies and gentlemen, just disregard the communication
12 of whatever may have been told to Mr. Butler by the court
13 reporter at the time the deposition was taken, all right. What
14 we want to focus on is what the deposition said.

15 And let's move on to the next question, sir.

16 MR. WHITTED: Okay. Thank you.

17 BY MR. WHITTED:

18 Q Now, Mr. Butler, when you don't take your medications,
19 certain things happen to you, don't they?

20 A No.

21 Q Okay. Don't you get crazy thoughts in your head when you
22 don't take your medications?

23 A I don't get no crazy thoughts in my head.

24 What do you mean by crazy?

25 Q Let's look at page 32 of your deposition, line nine?

1 A Thirty-two.

2 Q Yes. Actually, we'll start on line five on that page, page
3 32 and tell me if this is a fair read of what you told me under
4 oath at your deposition.

5 I said, "To your knowledge, what happens when you don't
6 take the medications?"

7 And your answer was, "I might get like thoughts in my --

8 A I might.

9 Q Let me finish reading and then you can respond?

10 A No.

11 THE COURT: Mr. Butler, just so we --

12 THE WITNESS: I don't want to give him --

13 THE COURT: If you would please, sir. What we'd like
14 you to do, if you would, is listen to what Mr. Whitted is
15 reading from the deposition. He's going to read it and he is
16 going to ask you, did I read it correctly. And that's all we
17 need you to say is whether he read it correctly or not. Please
18 don't volunteer anymore information.

19 THE WITNESS: I'm sorry, Your Honor, but I know
20 everybody busy these days.

21 THE COURT: No, no. You don't need to apologize. I
22 do need you to follow what I'm asking you to do, if you would,
23 please, sir.

24 Mr. Little can ask you more questions to follow up
25 once Mr. Whitted is done, but right now you just need to answer

1 the questions as best you can for Mr. Whitted today, all right,
2 sir?

3 THE WITNESS: Yes, sir.

4 THE COURT: He's going to read from the deposition and
5 ask you if he read it correctly.

6 Go ahead, sir.

7 MR. WHITTED: Thank you, Judge.

8 BY MR. WHITTED:

9 Q Page 32, line five, my question, "To your knowledge, what
10 happens when you don't take the medications?"

11 Your answer, "I might get, like, thoughts in my head.

12 Like, like -- I get, like, crazy thoughts in my head.

13 "Tell me one or two crazy thoughts that you might have?

14 "Might -- I'm like -- might like -- like maybe like --
15 maybe somebody trying to kill me."

16 Is that a fair read on what you told me under oath at your
17 deposition, Mr. Butler?

18 A Yes, sir.

19 Q Okay. And you also feel paranoid when you see the police,
20 don't you?

21 A Yes, sir.

22 Q Okay. And you sometimes hear voices when you see the
23 police too, don't you?

24 A Do I hear voices when I see the police? I just -- I just
25 see them and I just scared -- scared to look at them. Like, I

1 know they right there and I don't -- I -- I'm scared to look at
2 them.

3 Q Okay. Let's turn to page 34 and see what you told me under
4 oath at your deposition about this very question. Page 34 and
5 I'll start reading at line 18. Okay, page 34, line 18.

6 And my question to you then was, "Okay. Do you hear voices
7 when you see a police officer?"

8 And your answer was, "Sometimes."

9 Is that a fair read on what you told me under oath at your
10 deposition, Mr. Butler?

11 A I guess that's fair.

12 Q I'm sorry?

13 A I guess that's fair.

14 Q Okay. Now, you and Dr. Bangura also discussed the effects
15 of drinking alcohol in your condition as well. Did you all not
16 discuss that?

17 A She told me to don't drink alcohol when you take that
18 medication.

19 Q Okay. And because you understood that alcohol can make you
20 feel more paranoid, can't it?

21 A That's what she said.

22 Q Okay. Now, in your deposition, Mr. Butler, I also asked
23 you in particular whether you had taken your medications on June
24 the 7th of 2012, the date you were arrested. Do you recall I
25 asked you that question?

1 A Yes, sir.

2 Q Okay. And you were not sure whether you had taken your
3 medications on that day, right?

4 A I believe I told you -- I told you night before.

5 Q Okay. Let's look at what you told me. Turn to page 41 of
6 your deposition?

7 A What page?

8 Q Page 41. And I'm going to read -- start reading at line
9 11. Are you there?

10 A Forty-one, 11.

11 Q Line 11.

12 A Yes, sir.

13 Q And I asked you the following question: "All I'm asking
14 you now is, is it possible that you didn't take them? Were you
15 in a habit of not taking the medications off and on, just like
16 you've not had it this week? You told me the last time you had
17 it was Monday. So, you skipped about three days this week
18 taking those medications. I'm asking you, is it possible that
19 in the week of June the 7th that you had not taken the
20 medications on some days?"

21 And your answer was, "Oh, yeah, it's possible."

22 Is that a fair read of what you told me under oath in your
23 deposition?

24 A Yes, sir.

25 Q Okay. Now, you didn't keep a medical journal or a book or

1 log of when you took the three medications Dr. Bangura told you
2 to take; is that right?

3 A I didn't keep a log, sir.

4 Q Okay. So you have to rely upon your memory as to when you
5 took the three medications Dr. Bangura prescribed for you to
6 take everyday, right?

7 A Yes, sir.

8 Q And you would agree that over time, people's memories
9 tender to fade if you don't write things down?

10 MR. LITTLE: Objection.

11 THE COURT: Overruled.

12 BY MR. WHITTED:

13 Q Do you understand my question, Mr. Butler?

14 A Say it again.

15 Q You would agree with me that when people don't write things
16 down on a piece of paper or in a computer someplace that you can
17 tend to forget things over time?

18 A Totally.

19 Q Thank you.

20 And you also agree, Mr. Butler, that when you drink the
21 alcohol, you tend to hear the voices a bit more as well, don't
22 you? The voices you hear in your head sometimes, when you
23 consume alcohol, it makes those voices more -- you hear them
24 more?

25 A I don't know if I told you I drank alcohol, buddy, but --

1 Q Okay. I'm asking you now -- my question is, when you drink
2 alcohol, the voices are more --

3 A You saying -- are you telling me I drink alcohol or are you
4 asking me, do I drink alcohol?

5 Q I'm asking you, Mr. Butler, that when you drink alcohol,
6 the voices are more apparent to you. That's my question to you?

7 A I don't understand that question. I mean, you asked me, do
8 I drink alcohol or am I alcoholic, or what is you saying, sir?

9 Q I'm not saying you're an alcoholic, Mr. Butler. I'm not
10 accusing you of that at all. I'm simply asking that when you
11 drink alcohol, it makes the voices that you hear sometimes --

12 A When I drink alcohol? You mean, like, rubbing alcohol or
13 you talking about drinking liquor, or you talking about a beer?

14 Q Well, alcohol can be contained in wine, liquor or beer?

15 A Exactly.

16 Q Either one.

17 A Can you just be a little bit more specific?

18 Q I'm just asking about alcohol in general, Mr. Butler?

19 A No, I -- well, I dranked [sic] a beer when I was a kid with
20 my father, so, like --

21 MR. LITTLE: Objection.

22 THE COURT: Sustained.

23 THE WITNESS: -- it --

24 THE COURT: Hold on a second, Mr. Butler.

25 Next question please.

1 MR. WHITTED: Thank you.

2 BY MR. WHITTED:

3 Q Let's talk about your arrest on June the 7th of 2012, Mr.
4 Butler. Do you recall that day now?

5 A Oh, yeah, I'll never forget it.

6 Q Okay. Now, at the time of your arrest, you didn't live --
7 or your residence was not in the 800 block of Marcy Avenue, was
8 it?

9 A No.

10 Q You lived in Greenbelt Road at that time; did you not?

11 A Yeah, I lived on Good Luck Road.

12 Q And when Officer Reynolds saw you, you were next to the
13 Glass Manor Apartments on Marcy Avenue; were you not?

14 A Yeah, that's where I was born and raised at.

15 Q Okay. But you weren't living there at that time, right?

16 A I think my -- my, my -- it didn't have that on my ID. My
17 cousin lived around there.

18 Q All right. And when he saw you at about 6:30, you were
19 hanging out with two of your friends at that time, right?

20 A Say it again.

21 Q You were hanging out with two of your friends, Mr. Simms
22 and Mr. King?

23 A No, no, no, no. We wasn't hanging out. I was walking up
24 the street from the 7-Eleven and it was, like, a crowd of
25 people, I think. I think it was a fight going on outside that

1 day. And we was walking through and they pulled me over.

2 Q Okay. And weren't you standing next to the tree line by
3 the apartment complex when Officer Reynolds saw you?

4 A We wasn't standing nowhere. That's where the particular
5 incident happened that day. I believe it was a tree there and
6 that's what -- that particular day is what -- that incident
7 happened that day.

8 Q Okay. And you had a brown paper bag in your hands when
9 Officer Reynolds saw you; did you not?

10 A I think so.

11 Q Okay. And brown paper bags, it concealed whatever was
12 inside of the bag because you couldn't see the contents of the
13 bag because the bag is obviously brown?

14 MR. GRIFFITH: I'm going to object, Your Honor.
15 That's obvious.

16 THE COURT: Well, overruled.

17 BY MR. WHITTED:

18 Q The brown paper bag concealed what was inside, right,
19 Mr. Butler?

20 A When you say concealed, I mean, are you saying, like --
21 like, concealed like you got a beer in it or is you saying, like
22 -- 'cause I had -- I think I had a pack of gun. I had some
23 candy and I had a black bag over top of it as a carry bag along
24 with it so, like -- I like to get a bag and put stuff in bags,
25 you understand?

1 Q My simple question, Mr. Butler, is if you have a brown
2 paper bag in your hand, you can't see what's inside the bag, can
3 you?

4 A Oh, I don't know. I mean, a paper bag -- I mean, it's a
5 paper bag, you know, to -- it's a bag. I mean, I put my gum
6 along with some -- like, I might have a piece of candy or I
7 might have a pack of cigarettes, and I would just throw it all
8 in my bag.

9 Q Okay. Your testimony yesterday was that you had ice tea in
10 the bag; is that right?

11 A Yes, sir.

12 Q Now, there's no need to conceal --

13 A I don't understand the conceal.

14 Q Let me finish my question first, Mr. Butler.

15 There would be not need to conceal a can of ice tea?

16 A What does conceal mean?

17 Q Conceal means to hide it. There's no need to hide -- if
18 you're drinking ice tea, there's no need to hide the fact you're
19 drinking ice tea inside of a brown paper bag.

20 A Oh, no, you shouldn't hide no ice tea.

21 Q Okay. Now, Mr. Butler, you also understood on June 7th,
22 2012, it was illegal to drink alcohol in public? You understand
23 that then?

24 A You should never drink alcohol in public.

25 Q Thank you.

1 And so Officer Reynolds approached you when you had the
2 brown paper bag in your hand; did he not?

3 A I think so. I mean, I know I had my Arizona Ice Tea and he
4 came at me. He came at me and he came at me -- when he came at
5 me, I was scared off the break.

6 Q Okay. Did you start to hear voices when you first saw him?

7 A I think I did.

8 Q Okay. And before he even spoke to you, did you hear voices
9 in your head then?

10 A I just was like, why me?

11 Q Okay. And you began to feel paranoid, did you not, when
12 you first saw Officer Reynolds walk over to you?

13 A Absolutely.

14 Q Okay. And I think your phraseology of it yesterday, phrase
15 I'm not familiar with, but I think you called it "disturbed off
16 the break." Is that what your terminology is?

17 A Disturbed off the break. Oh, yeah, that's one of our
18 little slangs we use.

19 Q That's a slang you use, right? That means you get anxious
20 and apprehensive before --

21 A You know about that?

22 THE COURT: Sir, would you just wait and answer the
23 question, but not ask questions?

24 BY MR. WHITTED:

25 Q Disturbed off the break means you're becoming anxious

1 before anything is even happening, right?

2 A Well, no. I mean, I can be more specific, if you really
3 want to know. When I said, disturbed off the break, it's like,
4 wow. You know what I mean? It's like, wow.

5 Q Mr. Butler, my question simply is, before Officer Reynolds
6 spoke to you, you were disturbed off the break, as you said?

7 A I was paranoid.

8 Q Okay. And that's pretty much disturbed off the break,
9 right?

10 A I was paranoid.

11 Q Okay, all right.

12 And then he asked you what was inside the bag, right?

13 A Yeah.

14 Q Okay. And you had been drinking from the brown paper bag
15 that was in your hand?

16 A If I been drinking. I was drinking my tea.

17 Q And the tea was inside the bag, right?

18 A It was in a bag and it was in a plastic bag as well along
19 with my other stuff. I had potato chips and some other stuff.
20 I just came from the 7-Eleven on Marcy Avenue.

21 Q And so, he asked you at that time what you're drinking?

22 A Yes.

23 Q Okay. And you didn't tell him what you were drinking, did
24 you, because you were disturbed off the break?

25 A I got to laugh, because it's like you using it -- you

1 asking me the question in front of these people. I mean, I was
2 paranoid. I was -- disturbed off the break mean paranoid. Can
3 you please stop, like, using that?

4 Q So, he asked you a simple question. At that point in time,
5 you became paranoid?

6 A I became paranoid.

7 Q Okay. All right. And he asked you to put the can down,
8 right?

9 A Did he ask me to put the can down? Yeah, he asked me --
10 no, he asked me to put the can down, pour it out and he asked me
11 for my ID. He asked me for my ID. And he asked me to walk
12 toward his car.

13 I walked toward his car. He said, put his hands -- put my
14 hands on the car. I put my hands on the car. And he said,
15 spread your legs. I spread my legs. And again, it was hot
16 outside and I was walking up the hill. I think I was
17 dehydrated. Again, I felt off the break that, why is he messing
18 with me.

19 And I complied with him. He searched me. He patted me
20 down. Searched me around and gave me search like, like -- like,
21 it was a feminine search. He was all around my chest and
22 everything. And he all around my crouch and everything.

23 MR. WHITTED: Your Honor, object to the question --
24 the response is non-responsive to the question.

25 THE COURT: All right. Counsel, come on up, if you

1 would, please.

2 (Bench conference.)

3 THE COURT: Okay. So here's my concern. He, he -- it
4 is fairly easy to predict how he's going to react to these
5 questions. To the extent that you have deposition testimony
6 where he has already acknowledged what happened, that can simply
7 be read to the jury without the need to have him go through this
8 in a way that is -- might cause him to feel the way that he is
9 describing himself as having been felt when he was approached by
10 the officer in the presence of the jury. If that can be
11 avoided, that would be a good thing to do.

12 So, I understand your need to examine him, to
13 represent your clients, but to the extent that doing so is
14 likely to cause him to behave in a way that interferes with his
15 ability to simply directly answer the question, I would simply
16 ask you to consider whether the same information you are seeking
17 to get to the jury could simply be read to them from the
18 deposition transcript without need to have it be acknowledged by
19 him, because what he told you in his deposition is independently
20 admissible as an admission under 801(d)2(a).

21 So, I simply ask you to consider that as you continue
22 your examination.

23 MR. WHITTED: All right.

24 THE COURT: Thank you.

25 MR. WHITTED: Thank you, Judge.

(Open court.)

THE COURT: I think the paper hits the microphone.

THE WITNESS: I'm sorry, Your Honor. I'm trying to read too. I'm trying to keep up with what he trying to me. I ain't seen this stuff.

THE COURT: Well, hold on, because he's not asking you to read anything just yet, sir, okay?

THE WITNESS: Okay.

BY MR. WHITTED:

Q Mr. Butler, there came a time when you and Officer Reynolds got into a scuffle; is that right? Do you recall that? There was a fight?

A I ain't get in no scuffle, no fight with no police officer, sir. I would never, ever, ever get in a fight with nobody that got a gun.

Q Okay. Didn't you fall to the ground when Officer Reynolds tried to arrest you?

A I fell to the ground. I hit my head on the ground and he beat me up.

Q Okay. And when you hit your -- you hit your head on the ground, that's when you got the mark on your eye, your left eye, right?

A I hit my head on the ground and he was punching me. He punching me and he strong arm -- and he come out of nowhere. He come out of nowhere and helped him, and helped him and they beat

1 me up.

2 Let me just -- if you let me explain myself because --

3 Q No, if you'll just answer my question, Mr. Butler.

4 A He came out of nowhere and they jumped me.

5 THE COURT: All right. Next question please.

6 BY MR. WHITTED:

7 Q Okay. Now, after you sustained these injuries, Mr. Butler,
8 the paramedics were called to the scene; were they not?

9 A Yeah, the fire station was right down the street.

10 Q Okay. My question was, did the paramedics come to the
11 place where you were arrested, to the very spot you were
12 arrested?

13 A I think they came out of -- I think they came -- I think
14 they came, but it was like -- it wasn't like this came -- it was
15 like they was in a rush to come help me, okay. They came. They
16 came. They cruised down there. It wasn't like they was in a
17 emergency like a house was on fire or something like that.
18 Like, like, in my predicament whereas though I was beaten and I
19 was concrete. They cruised on down there.

20 And the police said -- and the ambulance rolled the window
21 down and said, is everything okay over there? And the police
22 said, come over there. And I sat over there. And by that time,
23 I was in handcuffs.

24 And by that time, I was just humiliated and I was crying,
25 and I was just -- I didn't know -- and, and, and I was just

1 asking for help, this, that and the other. And they, they,
2 they -- the man put me in the police car -- in the police car --

3 MR. WHITTED: Your Honor --

4 THE WITNESS: -- and he took me to the hospital.

5 THE COURT: All right. Next question.

6 MR. WHITTED: Thank you.

7 BY MR. WHITTED:

8 Q Mr. Butler, your eye is fine today; is it not? You have no
9 permanent injury to your eye, do you?

10 A I got a scar right there. Right there and a scar right
11 there. I wear eyeglasses. I usually wear eyeglasses, but I
12 can't really see that good because these lights and everything,
13 like -- I usually wear sunglasses and everything, but, like, my
14 eyes and everything, like, a little blurry.

15 Q Okay. Other than having to wear eyeglasses, you have no
16 permanent -- no injury to your eye. Your ability to see is not
17 impaired, is it, Mr. Butler?

18 A It might be. I ain't -- it might be, because it's -- it's
19 worser than it was. I need some glasses.

20 Q Okay. Your ability -- you complained about your foot being
21 injured. I noticed that you walked over from the table to the
22 witness stand. You have no permanent injury to your foot or
23 ability to walk, do you, Mr. Butler?

24 A Well, I got a little ache in there. If you really want me
25 to explain, I got a little ache in there. Yep, I got a little

1 ache in there and my back hurting today as well. And I -- and
2 my head still be throb -- hurting and dazed.

3 Q Okay. You told the jury that you were taking Oxycontin. I
4 don't see a prescription for that. Is that something you bought
5 on the streets?

6 A Never.

7 Q Okay. And you also mentioned you were taking Percocet?

8 A I think that's a generic name of Oxycontin, like, like --
9 like, I don't have the prescription bottle with me. I haven't
10 seen -- I'm in the process now of getting some new insurance and
11 --

12 MR. LITTLE: Objection.

13 THE COURT: Sustained.

14 Next question, please.

15 BY MR. WHITTED:

16 Q And, Mr. Butler, the only medical bill you have in this
17 case is the bill you received from Fort Washington Hospital for
18 \$845; is that correct?

19 A Yeah. I ain't even paid that.

20 Q Okay. And that's for the treatment you received on the
21 night you were arrested?

22 A That's the treatment. I think that's it, because I don't
23 have the papers you got. Let me see.

24 You talking about these papers right here, right? Yeah,
25 these papers right here. I remember them now. These papers

1 right here, right here, I think I got a bill for about -- for I
2 think \$400 bill. And there's another bill in there that I still
3 owe.

4 Q Okay. Now, since you were arrested, Mr. Butler, you've not
5 seen either Officer Windsor or Reynolds, have you?

6 A I don't know. I don't look at -- like I say, I don't look
7 at the police.

8 Q Okay.

9 MR. WHITTED: Court's indulgence please.

10 THE COURT: All right, sir.

11 Ladies and gentlemen, we'll probably take a break
12 within the next 30 minutes. Are we good for that period of
13 time, 15, 20 minutes, we'll take a break?

14 All right. How about we take a break --

15 THE WITNESS: I like police, but I don't --

16 THE COURT: Mr. Butler, would you wait for the
17 question, sir?

18 THE WITNESS: I'm sorry, Your Honor.

19 THE COURT: Sir, you don't need to apologize.

20 THE WITNESS: I totally apologize for --

21 MR. LITTLE: Mr. Butler.

22 THE COURT: You're fine, sir. Just wait for a
23 question, please.

24 THE WITNESS: Okay.

25 MR. WHITTED: Nothing further, Judge. Thank you.

1 THE COURT: Redirect, sir.

2 MR. LITTLE: Yes.

3 REDIRECT EXAMINATION

4 BY MR. LITTLE:

5 Q Just have a few questions for you, Mr. Butler. You want to
6 direct your attention over here to me.

7 Now, on the date of this incident, on June 7th, 2012, were
8 you hearing voices at that time?

9 A Naw.

10 Q Okay. And as far as the medication that you have been --
11 I'm sorry, prescribed by Dr. Bangura, had you taken it the day
12 before?

13 A Yes, sir.

14 Q Okay. So, at the time that this incident occurred and I'll
15 reiterate what I said -- at the time that this incident
16 occurred, you were not hearing voices and you were taking your
17 medication the day before?

18 MR. WHITTED: Objection, Your Honor.

19 THE WITNESS: That day --

20 THE COURT: Sustained.

21 Hold on.

22 Sustained. That was asked and answered clearly.

23 Next question please.

24 BY MR. LITTLE:

25 Q Now, you pointed to a -- when asked about the permanency of

1 any injuries that you had, you pointed to your left eye; is that
2 correct?

3 A This is my left eye right here.

4 Q Is there a scar there?

5 A I think so.

6 Q I'm asking you?

7 A Yes, sir.

8 Q Okay. Is that from the incident on June the 7th?

9 A Yes, sir.

10 Q You also said you still have the scar on your left forearm;
11 is that correct?

12 A Yes, sir.

13 Q Now, when the officer approached you on June the 7th, 2012,
14 you said you were drinking an Arizona Ice Tea?

15 A Yes, sir.

16 Q Was that in a bag?

17 A Yes, sir.

18 Q And what happened? Did the officer pour it out or did you
19 pour it out?

20 A I think he poured it out.

21 Q Okay. And this was not a Steel Malt Reserve liquor can?

22 MR. WHITTED: Objection, asked and answered.

23 THE WITNESS: No, sir.

24 THE COURT: Sustained. That was already covered.

25 BY MR. LITTLE: --

1 Q Mr. Whitted asked you about being in the area of Marcy
2 Avenue on June 7th, 2012. You didn't live there then, correct?

3 A I didn't live -- no, sir, I didn't -- I didn't --

4 Q Why were you there?

5 A At that -- I was going to see some friends that live around
6 there. I mean, like, like, like -- again, like --

7 MR. WHITTED: Your Honor, asked and answered.

8 THE COURT: Overruled.

9 BY MR. LITTLE:

10 Q You were going to see some friends?

11 A I was going to see some friends.

12 Q Okay. And did you grow up there?

13 A I grew up there, sir.

14 Q Okay. And your colleagues that testified yesterday,
15 Mr. Avery King, did you know him from there?

16 A Yes, sir.

17 Q And Charles Simms, did you know him from there?

18 A Yes, sir.

19 Q And you still have family around there?

20 A Yes, sir.

21 MR. LITTLE: I have no further questions.

22 THE COURT: All right. May the witness step down.

23 MR. LITTLE: Yes.

24 THE COURT: Okay. Ladies and gentlemen, I think this
25 is a good time to take a break. It is now, essentially, ten

1 minutes after. Let's come back at 25 minutes after and I'll be
2 talking to the lawyers while you are out there and we'll proceed
3 forward from there, okay.

4 (Jury out.)

5 (Whereupon, further proceedings were reported, but are not
6 herein transcribed.)

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CERTIFICATE OF COURT REPORTER

I, Linda C. Marshall, certify that the foregoing is a correct transcript from the record of proceedings in the above-entitled matter.

/s/

Linda C. Marshall, RPR
Official Court Reporter

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